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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN FRANCISCO DIVISION**

6 EPIC GAMES, INC.,

7 Plaintiff/Counter-
8 Defendant,

9 v.

10 GOOGLE LLC; GOOGLE IRELAND
11 LIMITED; GOOGLE COMMERCE
12 LIMITED; and GOOGLE ASIA PACIFIC
13 PTE. LTD.;

12 Defendants/
13 Counterclaimants.

14 GOOGLE PAYMENT CORP.,

15 Defendant.

Case No. 3:20-cv-05671-JD

**STIPULATION REGARDING
GOOGLE'S PRAYER FOR PUNITIVE
DAMAGES**

16 Plaintiff/Counter-defendant Epic Games, Inc. ("Epic") and Defendants/Counterclaimants
17 Google LLC; Google Ireland Limited; Google Commerce Limited; and Google Asia Pacific Pte.
18 Ltd. (collectively, "Google Counterclaimants") (together with Epic, the "Stipulating Parties"),
19 through their respective attorneys of record and without waiving any rights, claims, or defenses
20 except as expressly provided below, hereby stipulate to the following:

21 WHEREAS, the Google Counterclaimants filed their Answers, Defenses, and
22 Counterclaims on October 11, 2021 (ECF No. 182) (the "Counterclaims");

23 WHEREAS, the Google Counterclaimants assert that California substantive law governs
24 the Counterclaims;

25 WHEREAS, Epic does not contest that California substantive law, rather than the law of
26 any other jurisdiction, governs the Counterclaims;

27 WHEREAS, Epic's agreement not to contest the applicability of California substantive
28 law is made solely for the purposes of this action, and without waiver in this action or in any

1 other action of any claim, defense, or argument based on federal law or the law of another nation
2 (such other claims, defenses, or arguments being expressly preserved);

3 WHEREAS, based on Epic's agreement not to contest the applicability of California
4 substantive law, the Google Counterclaimants have agreed to withdraw their prayer for punitive
5 damages from the Counterclaims;

6 WHEREAS, the Google Counterclaimants' agreement to withdraw their prayer for
7 punitive damages is made without prejudice and without waiver of any right to amend or seek to
8 amend their Counterclaims; and

9 WHEREAS, except as expressly provided in this Stipulation, the Stipulating Parties
10 expressly reserve and do not waive any other right, claim, defense, or prayer for relief;

11 NOW, THEREFORE, the Stipulating Parties, through their counsel, stipulate as follows:

12 The Google Counterclaimants' prayer for punitive damages is stricken from the
13 Counterclaims.

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17 IT IS SO STIPULATED.

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19 Dated: November 1, 2021

By /s/ Ian Simmons
Ian Simmons
O'MELVENY & MYERS LLP

*Attorneys for Defendants/Counter-
plaintiffs Google LLC et al.*

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22
23 Dated: November 1, 2021

By /s/ Gary A. Bornstein
Gary A. Bornstein
CRAVATH, SWAINE & MOORE LLP

*Attorneys for Plaintiff/Counter-defendant
Epic Games, Inc.*

E-FILING ATTESTATION

I, Gary A. Bornstein, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(h)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Gary A. Bornstein

Gary A. Bornstein